

1 Shikeb Saddozai - CDCR #AY1590
2 California Correctional Institution(CCI)
3 P.O. Box 1905
4 Tehachapi, C.A. 93581
5 In Pro Per

FILED
JUN -5 2019
SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTH DISTRICT OF CALIFORNIA

6 UNITED STATES DISTRICT COURT
7 NORTHERN DISTRICT OF CALIFORNIA

8 SHIKEB SADDOZAI,

Case No. 18-cv-05558-BLF

9 Petitioner,

PETITIONERS APPLICATION
REQUESTING FILING FEES
UNDER IN FORMA PAUPERIS
BE WAIVED AND OR MODIFIED
WITH POINTS AND AUTHORITIES
IN SUPPORT OF MOTION

10 v.

11
12 N. MALIKIAN, et al.,

13
14 Defendants.

15
16 I, Shikeb Saddozai, am the petitioner in the above entitled case.
17 Please take notice that petitioner submits in forma pauperis,
18 requesting this court to proceed in the above entitled case,
19 without petitioner being required to prepay fees or costs or
give security therefore, I state because of my poverty, I am
unable to pay the cost of said proceeding or to give security
therefore, and that I believe I am entitled to redress.

20 I declare the statements which I have made below are true.

- 21
22 1. I am not presently employed.
23 2. In the past 12 months, family, and friends have sent me funds
24 as gifts, and donations, in the amount of \$900.00, for personal
hygiene, stationary supplies, food, and medical needs.
25 3. I have no source of income, and do not own cash, bank accounts,
26 real estate, stocks, bonds, notes, automobiles, or other valuable
27 property.

I. FACTS

4. Petitioner is unable to afford filing fee, and has attached hereto in support of declaration; Inmate Trust Account statement, with current balance of \$0.00, that the courts have ignored financial status of petitioner, and ability to pay. (SEE: Exhibit-A.)
5. Petitioner has brought civil actions without prepayment of fees, and allowed to proceed in forma pauperis, and is further proof, and demonstrates that petitioner is indigent, and can not afford fees in the matter. (SEE: Exhibit-A.)
6. Petitioner may never receive a job, and or with a pay number during his entire term in prison, and petitioners ability to pay, while in prison must be determined, upon his ability to work, as well as medical conditions, and needs which prevent meaningful job assignments, petitioners education level, which preclude petitioner from working a meaningful job, and more, none of these legitimate factors have been taken into consideration in the instant case.
7. Petitioner has used available funds, sent as gifts, and donations, from family, and friends, to advance legal litigations, needed for the purposes of initiating, and maintaining court actions, including but not limited to: habeas corpus, action, 42 U.S.C. § 1983 action, stationary supplies, postage, photo copying services, and legal reference materials.
8. Petitioner has restitution fines imposed by the courts, and only able to pay any of the fines, because family, and friends send funds as gifts, and donations, once in while, for stationary supplies, personal hygiene, food, and medical needs, and which more than half is taken before given to petitioner to pay court imposed restitution, along with unjust prison administration fees added on.
9. The court have collected filing fees exceeding the amount by statute for commencement of a civil action beyond the 20 percent of the greater of average month deposits to prisoners account, or average month balance for a 6 month period, immediately proceeding the filing of the complaint. see attached: Inmate Trust Account, Exhibit-A

II. LEGAL CLAIMS

10. Pursuant to 28 U.S.C. § 1915.(b)(4), in no event shall a prisoner be prohibited from bringing a civil action or appealing a civil or criminal judgment for the reason that the prisoner has no assets, and no means by which to pay the initial partial filing fee.
(SEE: Taylor v. Delatoor, 281 F.3d 844, 850-51 (9th Cir 2002))

. It would be inconsistent of the courts to furnish the same to a poor person in a civil case involving money only, and to deny it in a criminal proceeding where life, and liberty are in jeopardy.

11. A petitioner who can not pay the initial fee must be allowed to proceed with his case, and not merely granted more time to pay. The courts have discretion to assess or refrain from assessing cost; SEE: Feliciano v. Selsky 205, F.3d 568 572 (2d Cir.2000), and in exercising its discretion, the court must consider factors that will unduly delay or prejudice the adjudication of petitioners rights.

The courts in determining the petitioners ability to pay fee, and in giving said discretion ability to pay fees, the same and or similar standard exist in considering each major factors, such as court imposed restitutions, medical condition needs, lack of employment or job assignments, none of these legitimate factors have been taken into consideration, in the instant case, resulting in the " anomaly of restitution fines costing more money than petitioner can actually generate " and of which petitioner continues to suffer from.

12. There is no bad faith on petitioners part, upon providing court true facts demonstrated in prisoners Inmate Trust Account, where record lacks evidence of petitioners ability to pay, and that affiant is sufficiently poor, qualifies for In forma pauperis status.
(SEE: Mathew v. Gaither, 902 F.2d 877, 881 (11th Cir.1990).)

13. The filing fee would create a hardship, while in state prison, needed for plaintiffs litigation(s), postage, legal copies, stationary, that had not been considered, as to the minimum filing fee, especially amounts that exceed the minimum, as additional punishment in the matter, imposed by the courts. see Rutledge v. Romero, 1999 WL 412778, *1-2 (N.D. Ill, June 3, 1999)

1 14. In Redmond v. Gill, the District Court abused its discretion
2 in dismissing a case when plaintiff failed to return an
3 authorization form for payment of fees within 20 days;
4 requiring plaintiff be given more time. SEE: 352 F.3d 1315,
1321 (3rd Cir.2003); Wilson v. Sargent, 313 F.3d 1315, 1321
(11th Cir.2002).)

5 Constitutional guarantees of due process, and equal protection
6 both call for procedures in criminal offenses which allow
7 no invidious discrimination between persons in different
8 groups of persons; quoting: Griffin v. Illinois, and as such
a state may not inflict punishment on indigent criminal
defendant/petitioner, solely on the basis of their poverty.

9 15. On January 8th, 2019, Court of Appeals for the second
10 appellate court District State of California ruled using
the criminal process to collect fines, and fees is unconstitutional;
11 SEE: People v. Duenas, 30 Cal.App.5th 1157 (2019).)

12 Petitioner proceeds in this motion as an indigent person,
because financial information attached, indicate no assets;
13 SEE: U.S. v. Beckett, 208 F.3d 140, 148-149, no specific
finding were made regarding petitioners ability to pay;
14 SEE: U.S. v. Jaroszenko, 92 F.3d 485, 492, fees determined by
the courts are without consideration of economic circumstances
of petitioner, or any third party compensation
15 received in determining payment, reveals it was meant to be
punitive; SEE: People v. Hanson, 23 Cal.4th 355 (2000).)

16 16. In the instant case the court imposed a filing fee of \$350
17 based on assumption that plaintiff can pay the filing fee
18 out of his earnings, while in prison, which is more than
19 prisoners assets, and income. see Tucker v. Branker, 142 F.3d
1294, 1298 (D.C. Cir 1998).)

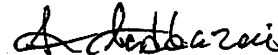
20 17. The filing fees are too excessive to petitioner, and there
21 are compelling, and extraordinary reasons, the court may
22 waive imposition of the filing fee, allowing petitioner to
23 proceed as indigent. see Henderson v. Norris, 129 F.3d 481,
484 (8th Cir 1997); Feliciano v. Selsky, 205 F.3d 568, 572
(2d Cir 2000).)

CONCLUSION

IT IS RESPECTFULLY REQUESTED THAT THIS PETITION BE GRANTED
BASED ON ALL THE ABOVE GROUNDS AND THAT RELIEF FROM THE
PREVIOUS FILING FEE IMPOSED BY THE DISTRICT COURT OF \$350
BE MODIFIED AND OR REDUCED TO THE SIMPLEST AND LEAST COSTLY
SOLUTION IN WHICH THE COURT HAS THE POWER TO REDUCE OR A
FULL WAIVER BE IMPOSED BY THE COURT IN THE INTEREST OF
JUSTICE.

Respectfully Submitted,

May 29th ,2019



Petitioner In Forma ProPria

VERIFICATION

I am the petitioner in the above entitled cause of action, I
have read the statements herein, and declare under penalty of
perjury that the above information are true and believe correct
to the best of my knowledge. Dated this 26th, day of April, year
of 2019, in the city of Tehachapi, county of Kern, in the state of
California.

May 29th ,2019

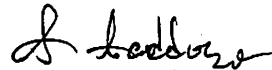


EXHIBIT - A

EXHIBIT - A

EXHIBIT A

Date\Time: 4/30/2019 10:02:27 AM

CDCR

Verified: _____

Institution: CCI

Inmate Statement Report

CDCR#	Inmate/Group Name	Institution	Unit	Cell/Bed
AY1590	SADDOZAI, SHIKEB	CCI	C 001 2	243001

Current Available Balance: \$0.00

Transaction List

Transaction Date	Institution	Transaction Type	Source Doc#	Receipt#/Check#	Amount	Account Balance
10/30/2018	CCI	BEGINNING BALANCE				\$97.80
11/01/2018	CCI	LEGAL COPY	11/1/18LCS10/25/18		(\$1.10)	\$96.70
11/01/2018	CCI	LEGAL COPY	11/1/18LCS10/30/18		(\$2.70)	\$94.00
11/01/2018	CCI	LEGAL COPY	11/1/18LCS10/24/18		(\$0.40)	\$93.60
11/02/2018	CCI	SALES	40		(\$93.60)	\$0.00
11/06/2018	CCI	JPAY	0000000092765153		\$300.00	\$300.00
11/06/2018	CCI	RESTITUTION FINE PAYMENT	0000000092765153		(\$150.00)	\$150.00
11/06/2018	CCI	ADMINISTRATIVE FEE	0000000092765153		(\$15.00)	\$135.00
11/07/2018	CCI	SALES	50		(\$88.30)	\$46.70
11/08/2018	SQ	RESTITUTION FINE PAYMENT	9552911806		(\$150.00)	\$840.00
11/08/2018	SQ	ADMINISTRATIVE FEE	9552911806		(\$15.00)	\$825.00
11/08/2018	CCI	SALES	23		(\$31.10)	\$15.60
11/08/2018	CCI	SALES	29		(\$7.00)	\$8.60
11/08/2018	SQ	TRACS TRANSFER OUT	TX11082018		(\$825.00)	\$0.00
11/08/2018	CCI	TRACS TRANSFER IN	TX11082018		\$825.00	\$833.60
11/16/2018	CCI	LEGAL COPY	11/16/18LCS11/15/18		(\$5.00)	\$828.60
11/16/2018	CCI	INMATE DEPOSIT	MRL# 149CC1595412897	11224	\$500.00	\$1,328.60
11/21/2018	CCI	LEGAL COPY	11/21/18LCS11/15/18		(\$1.30)	\$1,327.30
11/24/2018	CCI	SALES	19		(\$191.55)	\$1,135.75
11/30/2018	CCI	LEGAL COPY	11/30/18LCS11/27/18		(\$0.10)	\$1,135.65
12/03/2018	CCI	HEALTH RECORD COPIES	12/3/18HRC11/29/18		(\$0.30)	\$1,135.35
12/05/2018	CCI	SALES	69		(\$28.40)	\$1,106.95
12/20/2018	CCI	SALES	47		(\$219.95)	\$887.00
01/01/2019	CCI	PLRA	5:18-CV-04047-BLF	705347	(\$100.00)	\$787.00
01/01/2019	CCI	PLRA	5:18-CV-03972-BLF	705347	(\$100.00)	\$687.00
01/02/2019	CCI	LEGAL MAIL	11/2/19LM12/27/18		(\$13.35)	\$673.65
01/07/2019	CCI	PLRA	5:18-CV-04492-BLF	705347	(\$30.00)	\$643.65
01/09/2019	CCI	REGULAR MAIL	01/09/19REGMAIL01/04		(\$0.71)	\$642.94
01/14/2019	CCI	LEGAL COPY	01/14/19LCS01/14		(\$0.70)	\$642.24
01/17/2019	CCI	LEGAL COPY	01/17/19LM01/16/19		(\$2.60)	\$639.64

Date\Time: 4/30/2019 10:02:27 AM

CDCR

Verified: _____

Institution: CCI

Inmate Statement Report

Transaction Date	Institution	Transaction Type	Source Doc#	Receipt#/Check#	Amount	Account Balance
01/22/2019	CCI	MEDICAL COPAY	10/25/18MCP10/23/18		\$5.00	\$644.64
01/22/2019	CCI	SALES	37		(\$220.00)	\$424.64
01/25/2019	CCI	LEGAL COPY	01/25/19LCS0124/19		(\$2.50)	\$422.14
01/29/2019	CCI	PLRA	5:18-CV-05558-BLF	705449	(\$43.15)	\$378.99
01/31/2019	CCI	LEGAL COPY	01/31/19 LCS01/25/19		(\$0.80)	\$378.19
01/31/2019	CCI	LEGAL COPY	01/31/19 LCS01/28/19		(\$1.70)	\$376.49
02/11/2019	CCI	LEGAL COPY	02/11/19LCS02/07/19		(\$4.80)	\$371.69
02/19/2019	CCI	SALES	55		(\$121.95)	\$249.74
02/23/2019	CCI	SALES	45		(\$48.50)	\$201.24
03/05/2019	CCI	LEGAL MAIL	03/05/19LM02/21/19		(\$7.85)	\$193.39
03/05/2019	CCI	LEGAL MAIL	03/05/19LM02/28/19		(\$2.50)	\$190.89
03/08/2019	CCI	LEGAL MAIL	3/8/19LM3/5/19		(\$7.35)	\$183.54
03/13/2019	CCI	SALES	30		(\$49.55)	\$133.99
03/14/2019	CCI	LEGAL MAIL	03/11/19LM03/11/19		(\$2.50)	\$131.49
03/20/2019	CCI	SALES	9		(\$89.25)	\$42.24
03/25/2019	CCI	LEGAL MAIL	03/25/19LM 03/20/18		(\$8.30)	\$33.94
03/25/2019	CCI	LEGAL MAIL	03/25/19 LM 03/20/19		(\$7.35)	\$26.59
04/02/2019	CCI	LEGAL COPY	04/02/19LCS03/25/19		(\$1.00)	\$25.59
04/02/2019	CCI	LEGAL MAIL	04/02/19LM03/28/19		(\$2.05)	\$23.54
04/02/2019	CCI	LEGAL MAIL	04/02/19LM03/28/19		(\$2.05)	\$21.49
04/02/2019	CCI	LEGAL MAIL	04/02/19LM03/28/19		(\$2.05)	\$19.44
04/02/2019	CCI	LEGAL MAIL	04/02/19LM003/27/19		(\$2.05)	\$17.39
04/04/2019	CCI	LEGAL MAIL	04/04/19 LM 03/29/19		(\$2.05)	\$15.34
04/11/2019	CCI	JPAY	0000000099516095		\$200.00	\$215.34
04/15/2019	CCI	LEGAL MAIL	04/15/19LM04/11/2019		(\$2.20)	\$213.14
04/17/2019	CCI	SALES	7		(\$49.40)	\$163.74
04/17/2019	CCI	LEGAL MAIL	04/17/19LM04/11/19		(\$2.05)	\$161.69
04/17/2019	CCI	LEGAL MAIL	04/17/19LM04/11/19		(\$1.69)	\$160.00
04/18/2019	CCI	JPAY	0000000099793432		\$220.00	\$380.00
04/18/2019	CCI	LEGAL MAIL	04/17/19LM04/11/19		(\$0.36)	\$379.64
04/19/2019	CCI	SALES	17		(\$43.60)	\$336.04
04/19/2019	CCI	LEGAL COPY	4/19/19LCS4/11/19		(\$0.04)	\$336.00

Encumbrance List

Encumbrance Type	Transaction Date	Amount
Other Encumbrance	04/11/2019	\$40.00
Other Encumbrance	04/11/2019	\$40.00

Date\Time: 4/30/2019 10:02:27 AM

CDCR

Verified: _____

Institution: CCI

Inmate Statement Report

Encumbrance Type	Transaction Date	Amount
Other Encumbrance	04/11/2019	\$40.00
Other Encumbrance	04/11/2019	\$40.00
Other Encumbrance	04/18/2019	\$44.00
Other Encumbrance	04/18/2019	\$44.00
Other Encumbrance	04/18/2019	\$44.00
Other Encumbrance	04/18/2019	\$44.00

Obligation List

Obligation Type	Court Case#	Original Owed Balance	Sum of Tx for Date Range for Oblg	Current Balance
PLRA	5:18-CV-03972-BLF	\$350.00	(\$100.00)	\$166.00
PLRA	5:18-CV-04047-BLF	\$350.00	(\$100.00)	\$166.00
PLRA	5:18-CV-04492-BLF	\$350.00	(\$30.00)	\$236.00
PLRA	5:18-CV-05558-BLF	\$350.00	(\$43.15)	\$222.85
LEGAL COPY	4/19/19LCS4/11/19	\$2.20	(\$0.04)	\$2.16
LEGAL COPY	04/25/19LCS04/22/19	\$8.90	\$0.00	\$8.90
LEGAL COPY	04/25/19LCS04/23/19	\$2.10	\$0.00	\$2.10
LEGAL COPY	04/25/19LCS04/23/19	\$0.40	\$0.00	\$0.40
LEGAL COPY	04/25/19LCS04/23/19	\$4.50	\$0.00	\$4.50
COPY CHARGES	4/30/19STMNTCOPI ES	\$0.30	\$0.00	\$0.30

Restitution List

Restitution	Court Case#	Status	Original Owed Balance	Interest Accrued	Sum of Tx for Date Range for Oblg	Current Balance
RESTITUTION FINE	SC078812	Fulfilled	\$300.00	\$0.00	\$0.00	\$0.00
RESTITUTION FINE	16NF001414	Fulfilled	\$300.00	\$0.00	(\$300.00)	\$0.00